

**NEBRASKA DEPARTMENT OF ROADS  
DISTRICT 5  
WEED SPRAYING**

**GENERAL PROVISIONS**

**DESCRIPTION:** The State of Nebraska Dept. of Roads, District 5, is requesting bids for weed spraying services for eleven of the counties in the Panhandle. The counties are: Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan and Sioux. The bids will be by county boundaries. All counties listed above are open for bids and multiple bids by counties or contractors will be accepted. The contractor shall provide all labor, equipment, and materials to properly accomplish weed spraying in accordance with schedules, specifications, and directions of the Nebraska Department of Roads (NDOR). The bid price shall be for the hourly rate for providing spraying services regardless of the type of equipment. The hourly rate will be for each sprayer unit provided. One operator and one spray rig. We will only pay for one operator per spray rig.

**CONTRACT PERIOD:** A contract resulting from the request for bids will be effective from May 1, 2011 through October 31, 2011, with three-one year renewal options when mutually agreeable with the Contractor and the State of Nebraska.

**SCHEDULE OF EVENTS:** NDOR expects to adhere to the tentative procurement schedule shown below. It should be noted, however, that some dates are approximate and subject to change.

ACTIVITY		DATE/TIME
1.	Release Request for Bid	01/28/11
2.	Sealed Bids Accepted Until	02/23/11 @ 4:00 PM MDT
3.	Public Bid Opening: Location: Nebraska Department of Roads District 5 Headquarters 140375 Rundell Rd PO Box 220 Gering, NE 69341	02/24/11 8:00 AM MDT
4.	Notification of Contract(s) Award will be mailed on:	02/24/11

**SUBMISSION OF BIDS:** Bids can be submitted upon receipt of the bid request and will be accepted until 4:00 pm on February 23, 2011. Bids will be either mailed or hand delivered to the District Office in Gering, NE. No bids will be accepted after that date and time. It is the responsibility of the Bidder to verify that the bid is received by the NDOR. The State is not responsible for bids that are late or lost due to mail service inadequacies, traffic or any other reason(s). Multiple bids, if submitted, shall be written or typed on the back of the bid form.

**BID OPENING:** The sealed bids will be publicly opened on the date and time specified under the Schedule of Events.

**AWARD:** All contracts which are based on competitive proposals will be awarded according to the general provisions in the Request for Bid. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part, and at its discretion, may withdraw or amend the Request for Bid at any time. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State. The Request for Bid does not commit the State to award a contract. If, in the opinion of the State, revisions or amendments will require substantive changes in proposals, the due date may be extended.

**PRICE INCREASES:** *Bid prices shall remain firm for the duration of the original contract (i.e. through October 31, 2011). On subsequent extensions of the original contract, any price increases may be submitted in writing at least 120 days prior to the expiration.* The Nebraska Department of Roads will review the price increase and have the option to accept or decline the increase. All price increases must include justification for change and provide proof of increase. Any price increase will be mutually agreed upon prior to any additional 12 month contract extension.

#### **COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY**

**EMPLOYMENT / NONDISCRIMINATION:** The contractor shall comply with all applicable local, State and Federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Request for Bid.

**PERMITS, REGULATIONS, LAWS:** The contractor shall procure and pay for all permits, licenses and approvals necessary for the execution of the contract. The contractor shall comply with all applicable local, state, and federal laws, ordinances, rules, orders and regulations. The contractor must furnish proof that the applicators are properly licensed by the State of Nebraska and are properly trained. The proof must be provided prior to work beginning on the contract.

**ERRORS AND OMISSIONS:** The bidder shall not take advantage of any errors and/or omissions in this Request for Bid or resulting contract. The bidder must promptly notify the State of any errors and/or omissions that are discovered.

**GOVERNING LAW:** The contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the State of Nebraska regarding this Request for Bid or any resultant contract shall be brought in the State of Nebraska administrative or judicial forums as defined by State law. The contractor must be in compliance with all Nebraska statutory and regulatory law.

**CHANGES IN SCOPE/CHANGE ORDERS:** The State may, at any time with written notice to the contractor, make changes within the general scope of the contract. Changes in scope shall only be conducted with the written approval of the State's designee as so defined by the State from time to time. (The State retains the right to employ the services of a third party to perform any change order(s)).

The State may, at any time work is in progress, by written order, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the State may find necessary or desirable. The contractor shall not claim forfeiture of contract by reasons of such changes by the State. Changes in work and the amount of compensation to be paid to the contractor for any extra work so ordered shall be determined in accordance with the applicable unit prices of the contractor's proposal.

Corrections of any deliverable services or performance of work required pursuant to the contract shall not be deemed a modification requiring a change order.

**NEW EMPLOYEE WORK ELIGIBILITY STATUS:** The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. The Contractor hereby agrees to contractually require any subcontractors to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

The undersigned duly authorized representative of the Contractor, by signing this agreement, hereby attests to the truth of the following certifications, and agrees as follows:

**Neb.Rev.Stat. § 4-114.** I certify compliance with the provisions of Section 4-114 and, hereby certify that this Contractor shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. I agree to require all subcontractors, by contractual agreement, to require the same registration and verification process.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation form, available on the Department of Roads website at <http://www.nebraskatransportation.org/projdev/docs/save/dr289.pdf>.

2. If the Contractor indicates on such Attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**CONTRACTOR RESPONSIBILITY:** The contractor is solely responsible for fulfilling the contract, with responsibility for all services offered and products to be delivered as stated in the Request for Bid, the contractor's proposal, and the resulting contract. The contractor shall be the sole point of contact regarding all contractual matters.

If the contractor intends to utilize any subcontractors' services, the subcontractors' level of effort, tasks and time allocation must be clearly defined in the contractor's proposal. The contractor shall agree that it will not utilize any subcontractors not specifically included in its proposal, in the performance of the contract, without the prior written authorization of the State. Following execution of the contract, the contractor shall proceed diligently with all services and shall perform such services with qualified personnel in accordance with the contract.

**INVOICING & PAYMENT:** Invoices submitted for payment shall include the contract number under which the work has been performed, amount and type of chemical(s) used, hours worked, highway numbers, reference post numbers, side of roadway and the total acres sprayed. The contractor's invoice shall be submitted to the Area Maintenance Superintendent for approval. Garden and Deuel Counties will be sprayed in their entirety but when the bills are submitted for payment the portion that lies in District 6 will be submitted on a separate invoice.

**VIOLATION OF TERMS AND CONDITIONS:** Violation of the terms and conditions contained in this Request for Bid or any resultant contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

1. rejection of a bidder's proposal;
2. suspension of the bidder from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

**TERMINATION OF CONTRACT:** If at any time during the performance of this contract, in the opinion of the Department, the work is not progressing satisfactorily or within the terms of this contract, then at the discretion of the Department and after giving 5 days written notice to the bidder, the Department may terminate this contract and or part of it. At this termination date, the bidder will be entitled to a pro rata payment for all materials and or work received and accepted by the Department.

The Department, by giving 5 days written notice, may terminate this contract in whole or in part, when it is deemed in the best interest of the State of Nebraska. If this contract is so terminated,

the vendor will be compensated for the work performed up to the time of the termination notification. In no event shall payment for such costs exceed the current contract price.

**WEED SPRAYING PROCEDURES:** The Area Maintenance Superintendent will be the local contact and will direct the spraying operation. No spraying will be done without the consent of the Area Maintenance Superintendent and will cease when he directs. All sprayed areas will be marked by the contractor with NDOR provided wire flags, and removed by the contractor two weeks after the spraying application. The cost to place and remove the flags will be borne by the contractor. This will make verification and identification easier.

Only chemicals approved by the NDOR may be used in the spraying operations and they must be applied at recommended rates.

The chemicals and additives used for spraying will be paid for on a cost plus 15% basis. **In order for the chemicals and additives to be paid, copies of the receipts must accompany the bill when it is submitted.**

The contractor will furnish all fuel, oil, and grease for said equipment or operation. All labor and repairs necessary for repairing the equipment will be furnished by the owner without cost to the State. The contractor will pay the salaries of the equipment operators or employees performing the operation.

**EQUIPMENT AND SAFETY FEATURES:** All contractor equipment must be in good working condition and is suitable and safe for the work to be performed.

**DAMAGE TO HIGHWAY PROPERTY:** The contractor shall carry out operations in such a manner so as to not damage existing ground areas, trees, shrubs, signs, delineator posts, mail boxes and posts, or other roadside features. In the event damage should occur to any of the above-mentioned features, regardless if it is State or private property, the contractor shall replace or repair the damaged areas or items at no cost to the Department of Roads. In the event highway traffic control and/or warning signs are damaged beyond repair, the operator shall notify the area Maintenance Superintendent immediately so that replacement of the damaged sign(s) can be made. The cost of such repair and/or replacement of damaged State property shall be deducted from any payment due the contractor. The cost of repair and/or replacement of damaged private property shall be the responsibility of the contractor and the property owner, with no involvement of the Department of Roads.

**CONTRACTOR LIABILITY:** The contractor shall assume full liability for hazards to traffic and the public that may be created by the spraying operations and save harmless the Nebraska Department of Roads.

**INSURANCE REQUIREMENTS:** The contractor shall not commence work under the contract until he or she has obtained all the insurance required hereunder and such insurance has been approved by the State. The contractor shall not allow any subcontractor to commence work on his or her subcontract until all similar insurance required of the subcontractor has been obtained and approved by the State (or contractor). Approval of the insurance by the State shall not limit, relieve or decrease the liability of the contractor hereunder.

If by the terms of any insurance a mandatory deductible is required, or if the contractor elects to increase the mandatory deductible amount, the contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

### **1. WORKERS' COMPENSATION INSURANCE**

The contractor shall take out and maintain during the life of the contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractors' employees to be engaged in work on the project under the contract and, in case any such work is sublet, the contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. This policy shall include a waiver of subrogation in favor of the State. The amounts of such insurance shall not be less than the limits stated hereinafter.

### **2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE**

The contractor shall take out and maintain during the life of the contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect contractor and any subcontractor performing work covered by the contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under the contract, whether such operation be by the contractor or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury and Contractual Liability coverage. The policy shall include the State, and others as required by the contract documents, as an Additional Insured. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned and Hired vehicles.

### **3. INSURANCE COVERAGE AMOUNTS REQUIRED**

#### **a. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY**

Coverage A	Statutory
Coverage B	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

#### **b. COMMERCIAL GENERAL LIABILITY**

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 any one person
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Fire Damage	\$50,000 any one fire
Medical Payments	\$5,000 any one person

**c. COMMERCIAL AUTOMOBILE LIABILITY**

Bodily Injury/Property Damage \$1,000,000 combined single limit

**d. UMBRELLA/EXCESS LIABILITY**

Over Primary Insurance \$1,000,000 per occurrence

**4. EVIDENCE OF COVERAGE**

The contractor should furnish the Nebraska Department of Roads, a certificate(s) of insurance coverage complying with the above requirements before a contract is executed. Each policy or its declaration pages shall provide that the policy shall not be materially changed or canceled until the Department of Roads has been given at least 30 days advance notice in writing. If any policy is canceled during the duration of the contract, a satisfactory replacement policy must be in force, with notice and evidence of insurance to the Department, prior to the effective date of cancellation of the former policy.

These certificates or the cover sheet shall reference the Nebraska Department of Roads as the certificate holder and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded. If the State is damaged by the failure of the contractor to maintain such insurance, then the contractor shall be responsible for all reasonable costs properly attributable thereto. Certificates of insurance will not be accepted unless the insurer is licensed by the Nebraska Department of Insurance.

Notice of cancellation of any required insurance policy must be submitted to NDOR when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

Failure to furnish the required proof of liability insurance shall be just cause for cancellation of the award. Failure to furnish notice of cancellation or change in the policy will result in the temporary suspension of work. Temporary suspension shall remain in effect until proof that the required insurance in effect is received by the Department. If no proof of insurance is received within 10 days of the suspension order, the contract will be subject to cancellation.